

REMARKS

The claimed invention is directed to acidified starch products prepared using a food grade acid and high-intensity sweetener. The food-grade acid is selected from the group consisting of lactic acid, citric acid, phosphoric acid, fumaric acid, malic acid, tartaric acid, acetic acid, propionic acid, and mixtures thereof. The high-intensity sweetener is used in an amount effective for masking the acidic flavor of the food-grade acid, but not in an amount sufficient to provide a sweet flavor to the product. The use of the high-intensity sweetener allows a sufficient quantity of food-grade acid to be used to provide microbiological stability without resulting in a product with objectionable acid flavor.

I. Claim Rejections – 35 U.S.C. §103(a)

Claims 1-24, 26-28, 30-37 and 40-57 have been rejected as being unpatentable over Howard, et al. (U.S. Patent No. 5,332,587) in view of Denhartog, et al. (U.S. Patent No. 5,747,091). The amended claims, as currently presented, traverse these rejections for the reasons that follow.

Howard, et al. is directed to acid-stabilized pasta prepared with polymeric food-acceptable acids. Howard, et al. teaches that in contrast to conventional food-grade acids, such as low molecular weight inorganic or organic acids, polymeric food-acceptable acids do not impart acidic or other undesirable “off” flavors to the pasta. (Col. 6: 10-15, Col. 2: 60-3:9). Howard, et al. defines the acid used as a polymeric, typically macromolecular, food-acceptable acid with a molecular weight above or about 190. (Col. 6: 6-12) Howard, et al. teaches that previous methods which utilize acid result in a product which does not possess the desirable attributes of a premium pasta product. (Col. 6: 58-63). Howard, et al. suggests that the previous products have an unpalatable acid taste, which Howard, et al. remedies by the use of a polymeric food acceptable acid. Howard, et al. does disclose the use of a conventional acids such as lactic, citric, malic, hydrochloric, phosphoric, fumaric, tartaric, acetic and propionic in combination with the polymeric high-molecular mass food-acceptable acids. (Col. 8: 13-40). However, Howard, et al. teaches that at least 20% of the acid, by weight, must be polymeric in

order to achieve a product with attributes similar to fresh. (Col. 8: 36-40). In the examples cited by Howard, et al. the polymeric acid comprised at least 40% of the total amount of acid used. (Col. 8: 36-40).

The teachings of Howard, et al. are in contrast to the current application. The current application does not use polymeric acids, instead using conventional food-grade acids selected from the group consisting of lactic acid, citric acid, phosphoric acid, fumaric acid, malic acid, tartaric acid, acetic acid, propionic acid, and mixtures thereof. Because Howard, et al. teaches away from the sole use of conventional food-grade acids taught in the application for the acidification of pasta and other starch products, Howard, et al. does not disclose or suggest the teachings of the current application.

Denhartog, et al. is directed to sweetened extruded food products based on vegetable material. Denhartog, et al. does not teach or suggest using high-intensity sweeteners to mask unwanted flavors. Instead, Denhartog, et al. uses high-intensity sweeteners to provide a sweetened product by replacing sucrose with the high-intensity sweetener. (Col. 2: 42-54). Moreover, Denhartog, et al. teaches that compared with products prepared using only sucrose, the use of a high-intensity sweetener in extruded food products results in a greater volume expansion during extrusion and thus a lower bulk density. (Col. 3: 3-10). In the present invention, the goal of the disclosed process is to create a product that retains the characteristics of a fresh pasta or starch product. Denhartog, et al. teaches that a food product prepared with a high-intensity sweetener results in a lower bulk density product which would not be desirable in the current application. Instead, the expansion of the pasta or starch product would create a product which differs from fresh pasta, defeating the purpose of the invention of the application. Moreover, Denhartog, et al. does not teach or suggest a quantity of high-intensity sweetener that is sufficient for masking acid taste caused by food-grade acids and that does not also result in a fully sweetened product. Therefore, given the teachings of Denhartog, et al., in particular, that a food product with a high-intensity sweetener creates a lower density product, Denhartog, et al. does not disclose or suggest the process of the current application.

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The Examiner also stated that it is well known in the art that artificial sweeteners serve as taste masking agents. The Examiner cited Ulrich, et al. (U.S. Publication 2003/0032600) to support this statement. The Ulrich, et al. application is directed to a bitter taste masking composition for use in pharmaceutical compounds. Given the differences between pasta and pharmaceutical compounds, the pharmaceutical compounds having active agents contained therein, one skilled in the art would not be motivated to apply taste masking agents used in a pharmaceutical context to acidified starch products.

In conclusion, one of ordinary skill in the art would not be motivated to combine a reference directed to polymeric food-grade acceptable acids which do not impart acidic flavor with either a reference to a high intensity sweetener used for extruded vegetable matter which creates a lower bulk density product or a reference which is used to mask a bitter taste for pharmaceutical compositions to create the product and/or process of the current invention.

The Commissioner is hereby authorized to charge any additional fees which may be required in this application to Deposit Account No. 06-1135.

Respectfully submitted,
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